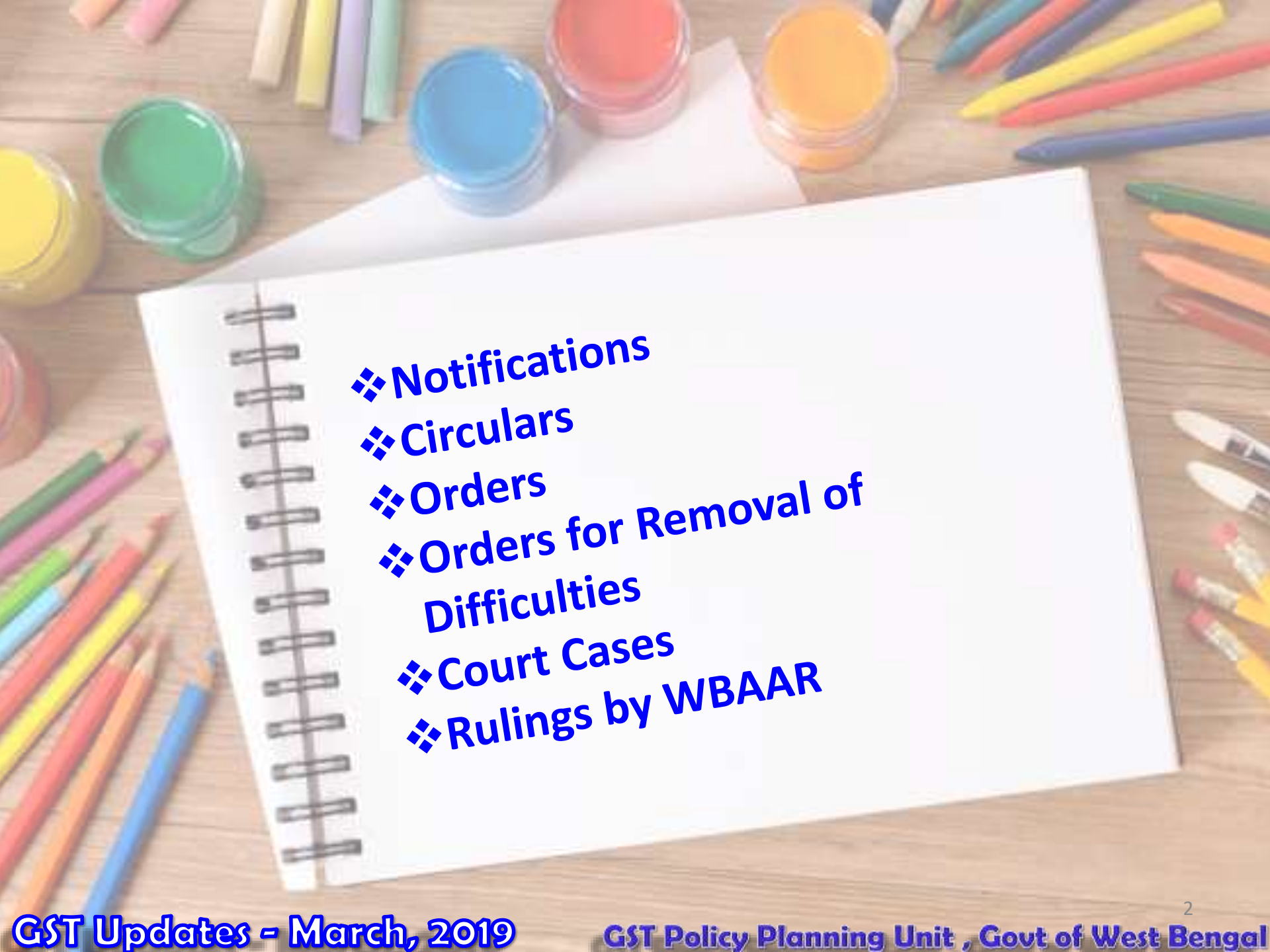
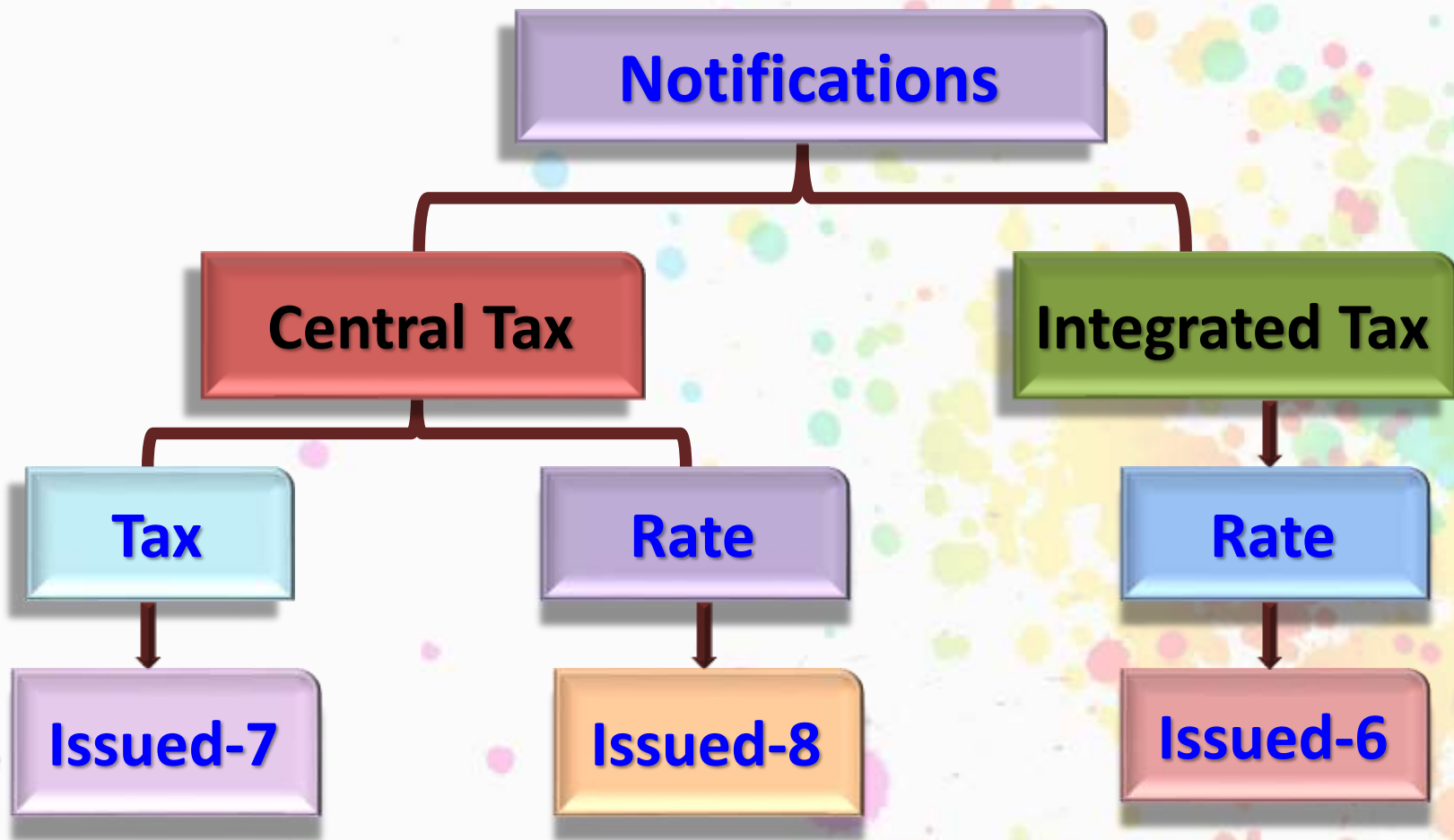


GST Updates- **March, 2019**



GST Policy Planning Unit , Govt of West Bengal

- 
- ❖ Notifications
 - ❖ Circulars
 - ❖ Orders
 - ❖ Orders for Removal of Difficulties
 - ❖ Court Cases
 - ❖ Rulings by WBAAR



Central Tax Notifications

Sl No	Subject	Central Notification No with date	State Notification No with date
1.	<p>Exemption from registration for persons engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs 40 lakh</p> <p>EXCEPTING:</p> <p><i>(a) persons required to take compulsory registration u/s 24</i></p> <p><i>(b) persons engaged in making supplies of Ice cream and other edible ice, Pan masala, Tobacco and manufactured tobacco substitutes</i></p> <p><i>(c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and</i></p> <p><i>(d) Voluntarily Registered persons</i></p> <p>◆ With effect from 01-4-2019</p>	<p style="text-align: center;"><u>10/2019-CT,</u> <u>dt. 07-03-2019</u></p> <p>◆ Drafting mistakes in the serial numbers in this notification is rectified vide <u>Corrigendum, dt. 29-03-2019</u></p> <p>(not applicable for corresponding State Notification)</p>	<p style="text-align: center;"><u>378-F.T.</u> <u>dt 07.03.2019</u></p>

Central Tax Notifications (contd)

Sl No	Subject	Central Notification No with date	State Notification No with date
3.	Prescribes the due date for furnishing of FORM GSTR-1 for QE 30.06.2019 as 31st July, 2019 for taxpayers with aggregate turnover up to Rs. 1.5 crore. #	<u>11/2019-CT,</u> <u>dt. 07-03-2019</u>	<u>379-F.T.</u> <u>dt 07-03-2019</u>
4.	Time limit for furnishing of FORM GSTR-1 for the months of April, May and June, 2019 is extended till the 11th day of the succeeding month by taxpayers with aggregate turnover exceeding Rs. 1.5 crore. #	<u>12/2019-CT,</u> <u>dt. 07-03-2019</u>	<u>04/2019-C.T./GST</u> <u>dt. 07/03/2019</u>

date of effect is 01-04-2019 & time limit for furnishing of GSTR-2 & GSTR-3 to be subsequently notified.

Central Tax Notifications (contd.)

Sl No	Subject	Central Notification No with date	State Notification No with date
5	<p>Prescribes the due date for furnishing return in GSTR-3B for April 2019, May 2019 & June 2019, as on or before the 20th day of the succeeding month.</p> <p>(Last date for discharging liability towards tax, interest, penalty, fees or any other amount payable is also fixed at 20th day of the succeeding month)</p>	<u>13/2019-CT ,dt. 07-03-2019</u>	<u>05/2019–C.T./GST dt: 07/03/2019</u>
6	<p>Threshold of aggregate turnover for availing of Composition Scheme u/s 10 is enhanced to Rs. 1.5 crore</p> <p><i>(by superseding notification No.s <u>08/2017 - CT dt 27.06.2017</u> & <u>46/2017-CT dt.13.10.2017</u> by which the said threshold was fixed at Rs 75 lakh & Rs. 1Crore respectively for states other than special category states)</i></p> <p>Date of effect: 01.04.2019</p>	<u>14/2019-CT ,dt. 07-03-2019</u>	<u>380-F.T. dt 07.03.2019</u>

Central Tax Notifications *(contd.)*

Sl No	Subject	Central Notification No with date	State Notification No with date
7	<p>The due date for furnishing of FORM GST ITC-04 (in respect of goods dispatched to a job worker or received from a job worker) during the period from July, 2017 to March, 2019 is extended till the 30th day of June, 2019.</p> <p><i>(This notification is issued in supersession of the notification No. <u>78/2018- CT dt 31.12.2018</u> that extended the time limit for furnishing FORM GST ITC-04 for period July 2017 to December 2018 till 31/03/2019)</i></p>	<p><u>15/2019-CT ,dt. 28-03-2019</u></p>	<p><u>06/2019-C.T./GST dt: 28/03/2019</u></p>

Central Tax Notifications (contd.)

Sl No	Subject	Central Notification No with date	State Notification No with date
8.	Second Amendment (2019) to CGST Rules, 2017 in respect of:	<u>16/2019-CT,</u> <u>dt. 29-03-2019</u>	<u>559-F.T.</u> <u>dt 29.03.2019</u>

⊕ **Rule 41(1):** Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.

⊕ A new explanation has been inserted clarifying the meaning of “value of assets” as the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

⊕ **Rule 42:** Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.

⊕ The rule is amended to incorporate manner of determination and reversal of Input tax credit in respect of real estate sector

● **New Rule 88A:** Order of utilization of input tax credit .

● ITC of Integrated Tax can be utilized for payment of Central Tax & State Tax/UT Tax in **ANY ORDER** subject to the condition that, entire **ITC of IGST SHALL BE EXHAUSTED FIRST** before utilization of ITC of Central Tax or State Tax /UT Tax

Central Tax Notifications (*contd.*)

● **Rule 100:-** Assessments in certain cases:

- ◆ Amended to incorporate the requirement to **upload summary of assessment (under section 62/63 /64) in FORM DRC-07**

◆ **Rule 142:** Notice and Order for demand of amounts payable under the Act

- ◆ Following sections incorporated in clause (a) of sub-rule (1): **52, 76, 122, 123, 124, 125, 127, 129, 130**
- ◆ Following sections incorporated in sub-rule (5) besides already existing sections 73, 74, 75, 76, 125, 129, 130: **52, 62, 63, 64, 122, 123, 124, 127**

➔ Format of FORM GST DRC- 01, FORM GST DRC- 07, FORM GST DRC- 08, FORM GST ASMT- 01, FORM GST ASMT- 01, FORM GST ASMT- 16 **has been modified.**

Central Rate Notification

Sl No	Subject	Central Notification No with date	State Notification No with date
1	<p>Composition-like scheme for service providers: First supplies(intra-state) of goods or services or both up to an aggregate turnover of Rs.50 Lakh made on or after 1st April in any financial year by a registered person to be taxed @6% (=3%+3%) subject to the conditions:-</p>	<p><u>2/2019-CT (Rate) dt 07.03.2019</u></p>	<p><u>377-F.T. dt 07.03.2019</u></p>

■ Aggregate turnover ≤ Rs.50 Lakh in the preceding financial year

■ Not eligible to pay tax under section 10(1)[the existing Composition scheme]

■ Not permitted to make any inter-state outward supply or non-taxable supply.

■ Cannot be a casual taxable person or a non resident taxable person.

■ All such registered persons under the same PAN shall pay tax at the aforesaid rate

Central Rate Notification (contd.)

Conditions for availing the Composition-like scheme for service providers (contd):

■ Shall issue bill of supply in respect of supplies.

■ Shall continue to be liable to pay tax under RCM, if applicable

■ Shall pay tax @ 6% (=3%+3%) on all outward supplies up to Rs. 50 Lakh

■ Not permitted to make any supply through an electronic commerce operator required to collect tax at source.

■ Shall not collect tax from the recipients nor is entitled for input tax credit.

■ Cannot be a supplier of ice cream & other edible ice, Pan masala, tobacco & manufactured tobacco substitutes.

■ Aggregate turnover for determination of eligibility to pay tax as above shall not include value of exempt services like extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount

Central Rate Notification (contd.)

Notifications on REAL ESTATE SECTOR

Sl No	IGST Notification No with date	Central Notification No with date	State Notification No with date
2	<u>03/2019-IGST (Rate), dt. 29-03-2019</u>	<u>03/2019-CT(Rate), dt. 29-03-2019</u> <u>corrigendum</u>	<u>552-F.T.</u> <u>dt 29.03.2019</u> <u>corrigendum</u>
3	<u>04/2019-IGST (Rate), dt. 29-03-2019</u>	<u>04/2019-CT (Rate), dt. 29-03-2019</u>	<u>553-F.T.</u> <u>dt 29.03.2019</u>
4	<u>05/2019-IGST (Rate), dt. 29-03-2019</u>	<u>05/2019-CT (Rate), dt. 29-03-2019</u>	<u>554-F.T.</u> <u>dt 29.03.2019</u>
5	<u>06/2019-IGST (Rate), dt. 29-03-2019</u>	<u>06/2019-CT (Rate), dt. 29-03-2019</u>	<u>555-F.T.</u> <u>dt 29.03.2019</u>
6	<u>07/2019-IGST (Rate), dt. 29-03-2019</u>	<u>07/2019-CT (Rate), dt. 29-03-2019</u>	<u>556-F.T.</u> <u>dt 29.03.2019</u>
7	<u>08/2019-IGST (Rate), dt. 29-03-2019</u>	<u>08/2019-CT (Rate), dt. 29-03-2019</u>	<u>557-F.T</u> <u>dt 29.03.2019</u>

Central Rate Notification (contd.)

Rate of tax on real estate projects (after allowance of 1/3rd abatement for land) which commenced on or after 01.04.2019

Sl No	Types of Real Estate Project	Rate of Tax on different Apartment Types		
		Affordable residential apartment	Non-Affordable residential apartment	Commercial apartment
1	RREP	1% (without ITC)	5% (without ITC)	5% (without ITC)
2	REP	1% (without ITC)	5% (without ITC)	12% (with ITC)

RREP (Residential Real Estate Project): Project in which the carpet area of the commercial apartments is not more than 15% of the total carpet area.

REP (Real Estate Project other than RREP): Project where the carpet area of commercial apartments is more than 15% of the total carpet area

Affordable residential apartment : A residential apartment (in a project which commences on or after 01/04/2019/promoter has not exercised option to pay tax at the old rate in case of an ongoing project) having carpet area not exceeding 60 sq. mtr. in metropolitan cities or 90 sq. mtr. in cities or towns other than metropolitan cities AND for which the gross amount charged is not more than forty five lakhs rupees.

For **Kolkata**, the meaning of metropolitan city is prescribed by the State Government to be the geographical limit of **Kolkata Metropolitan City (KMC) only**

Central Rate Notification (contd.)

Rate of tax in an ongoing project (after allowing 1/3rd abatement of land)

Sl No	Types of Real Estate Project	Rate of Tax	Condition
1	Construction of an apartment in an ongoing project under any of the Govt. schemes like JNNURM, Pradhan Mantri Awas Yojana, CLSS etc.(affordable category prior to 01.04.2019)	8% (with ITC)	<ul style="list-style-type: none"> The registered person has to exercise one time option in the prescribed Form to pay tax at the old rate by the 10.05.2019 (subsequently extended to 20.05.2019) ;
2	<ul style="list-style-type: none"> Commercial apartment in an REP Non-Affordable residential apartments in an ongoing project where option to pay tax at the old rate has been exercised 	12% (with ITC)	<ul style="list-style-type: none"> Non-exercising of option shall mean that tax would be paid at the new rate

“Ongoing project” :

- ◆ Commencement Certificate issued (where required to be issued) on or before 31.3.2019 certifying that the project has started on or before 31.3.2019 /It is certified by the authority as specified in the notification that the project has started on or before 31.3.2019 (if commencement certificate is not required)
- ◆ Completion Certificate has not been issued/first occupation has not taken place on or before 31.3.2019
- ◆ Apartments being constructed under the project have partly/wholly booked on or before 31.03.2019

Central Rate Notification (contd.)

Highlights on Real Estate

Transfer of development rights or Floor Space Index(including additional FSI) or long-term lease of land on or after 01.04.2019 for construction of residential apartments is EXEMPTED except where the entire consideration for the apartment is received after obtaining the completion certificate/first occupation.

Promoter shall be liable to pay tax on reverse charge mechanism(RCM) on such proportion of value of development rights/Floor Space Index(including additional FSI)/upfront amount paid for long term lease of land which remain un-booked on the date of issue of CC/first occupation

Landowner-Promoter: One who transfers land or development right or FSI to a developer-promoter for construction of apartments & receives constructed apartments as consideration & sells such apartments independently.

Developer-Promoter: One who constructs or converts a building into apartments or develops a plot for sell.

Central Rate Notification (contd.)

Highlights on Real Estate

◆ Tax liability on new rates to be discharged in cash

Input tax available to the extent it is attributable to construction of projects which has time of supply on or before 31/3/2019 to be determined as per the given formula.

ITC attributable to construction in a project time of supply of which is on or after 01/04/2019 to be calculated as per the given formula and is required to be debited.

The developer –promoter to pay tax on supply of construction of apartments to the landowner promoter who is a registered person and transferred development right or FSI(including additional FSI) to the promoter against consideration, wholly or partly, in the form of construction of apartments.

Landowner-promoter is entitled to the ITC of tax so charged if he further supplies such apartments before issuance of CC/first occupation and pays tax on his supply at least to the extent charged on him.

Central Rate Notification (contd.)

Highlights on Real Estate

◆ **80% purchase of input and input services (excluding development rights, long term lease of land etc.) from registered suppliers:**

In case of shortfall during a financial year from the said threshold of 80%, the tax liability on the shortfall to be discharged by the promoter on reverse charge mechanism (i.e. RCM) at the rate of 18%

Inward supply of cement by the promoter from unregistered person is liable to be taxed on reverse charge mechanism @ 28%

Central Rate Notification (contd.)

Other rates of taxes notified in respect of real estate sector:

Sl No	Type of Service	Rate of Tax	Conditions
1	Composite supply of works contract service of affordable residential apartments in a project, other than projects taxable at the new rates in affordable residential apartments, commencing on or after 01/04/2019 or where in an on going project where option to pay tax at the old rates has not been exercised.	12%	Carpet area of the affordable residential apartments is not less than 50% of the total carpet area of all the apartments in the project

Central Rate Notification (contd.)

SI No	Subject	Central Notification No with date	State Notification No with date
8	Modification in <u>notification No. 02/2019-CT (Rate), dt 07-03-2019</u> prescribing composition like scheme for service providers as follows:	<u>09/2019-CT (Rate) dt. 29-03-2019</u>	<u>558-F.T dt 29.03.2019</u>

◆ Insertion of an additional condition for availing of the scheme - New clause 8 is inserted to making a registered person liable to debit the electronic credit ledger or electronic cash ledger equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods in case he has availed of input tax credit but, opts to pay tax under the new scheme. The balance of input tax credit, if any, lying in his electronic credit ledger after such payment shall lapse.

◆ CGST Rules as applicable to a person paying tax under the composition scheme shall apply mutatis mutandis to a person opting to pay tax under the new scheme

Circulars on Central Tax

Issued

Five

Sl	Subject	Central Circular No & date	State Circular No & date
1	Clarification on various doubts related to treatment of sales promotion schemes under GST	<u>92/2019</u> <u>dt 07.03.2019</u>	<u>20/2018</u> <u>dt. 02.05.2019</u>

◆ **Scheme:** Free samples and gifts

◆ **Clarifications:**

Samples that are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.

◆ **Conditions:**

● Input tax credit **shall not be available** to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

● Where the activity of distribution of gifts or free samples falls within the scope of “supply” on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

Circulars on Central Taxes (contd.)

◆ Clarification on various doubts related to treatment of sales promotion schemes under GST(contd.):

◆ **Scheme:** Buy one get one free offer

◆ **Clarifications:** It can be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.
per the provisions of section 8 of the said Act.

◆ **Conditions:**

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

◆ **Scheme:** Discounts including 'Buy more, save more' offers

◆ **Clarifications:** Discounts offered by the suppliers to customers (including staggered discount under 'Buy more, save more' scheme and post supply/ volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided the parameters of s.15(3) are fulfilled

◆ **Conditions:** Supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

Circulars on Central Taxes (*contd.*)

◆ Clarification on various doubts related to treatment of sales promotion schemes under GST (*contd.*):

◆ **Scheme:** Secondary Discounts

◆ **Clarifications:**

- ◆ financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied
- ◆ Secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied

◆ **Conditions:**

There is no impact on availability or otherwise of ITC in the hands of supplier.

Circulars on Central Taxes (contd.)

SI No	Subject	Central Circular No & date	State Circular No & date
2	Clarification on the nature of Supply of Priority Sector Lending Certificates (PSLC) :-	<u>93/2019</u> <u>dt 08.03.2019</u>	<u>13/2019</u> <u>dt. 11.03.2019</u>

➔ Supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce

➔ **IGST shall be payable** on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e **01.07.2017 to 27.05.2018** and from **28.05.2018** onwards.

➔ Where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, **shall not be required** to pay IGST towards such supply.

Circulars on Central Taxes (contd.)

Sl No	Subject	Central Circular No & date	State Circular No & date
3	Clarification of certain refund related issues under GST which are as follows:	<u>94/2019</u> <u>dt 28.03.2019</u>	<u>14/2019</u> <u>Dt 28.03.2019</u>

- **Refund of accumulated ITC on account of inverted tax structure**, for the period(s) in which there is **reversal of the ITC required to be lapsed** in terms of the notification No. 20/2018-CT(Rate) dt 26.07.2018 read with circular No. 56/30/2018-GST dt 24.08.2018, is to be claimed under the category **“any other”** instead of under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure” as a one time measure and related issues in respect of the aforesaid claim.
- **Refund of accumulated input tax credit under rule 89(4B)** of the CGST/WBGST Rules, 2017 is to be claimed under the category **“any other”** instead of under the category “refund of unutilized ITC on account of exports without payment of tax” & related issues.
- In case of re-credit of debited amount subsequent to issuance of deficiency memo fresh refund application may be taken manually & to be processed as per the guidelines in the circular

Circulars on Central Taxes *(contd.)*

Sl No	Subject	Central Circular No & date	State Circular No & date
4	Clarification regarding processing of application for registration submitted by the taxpayers, where the tax payer is seeking another registration within the State although he has an existing registration within the same State or his earlier registration has been cancelled:	<u>95/2019</u> <u>dt 28.03.2019</u>	<u>15/2019</u> <u>Dt 28.03.2019</u>

The proper officer may reject the application for registration if he finds on comparing the information pertaining to earlier registrations that:

- ▶ Application for revocation of cancellation of registration has not been filed by the tax payers for his previous registration
- ▶ Return has not been furnished for a continuous period of six months for normal tax payers & for three consecutive tax periods for the composition tax payers.

Circulars on Central Tax (contd.)

Sl No.	Subject	Central Circular No with date	State Circular No with date
5	<p>Clarification regarding transfer of input tax credit in case of death of sole proprietor if the business is continued by any person being transferee or successor.</p> <p>The input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred as under. The transferee shall,</p>	<p><u>96/2019</u> <u>dt 28.03.2019</u></p>	<p><u>16/2019</u> <u>dt. 28.03.2019</u></p>

◆ **Apply for registration** in GST REG-1 & mentioning the reason to obtain registration as “**death of the proprietor**”.

◆ **Apply for cancellation of registration** in GST REG-16 for the dead sole proprietor & mentioning the reason of cancel as “**death of the proprietor**”.

◆ **Mention the GSTIN of transferee** to whom the business to be transferred for linking the GSTIN of the transferor with the GSTIN of transferee.

◆ **File GST ITC-02** by the transferee in respect of the registration which is required to be cancelled on account of death of the sole proprietor before filing the application for cancellation of such registration.

◆ **Accept** the un-utilized input tax credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger

Order Issued



One

Sl No.	Subject	Central Order No with date	State Order No with date
1	Assigning twenty-two cases of taxpayers to the Commissioner of Central Tax, Mumbai Central which is being investigated by the office of Commissioner of Central Tax, Mumbai Central, for the purpose of exercise of powers under sections 73,74, 75 and 76 of the CGST Act, 2017	<u>Order-02/2019-GST</u> <u>dt 12.03.2019</u>	----

Removal of Difficulties Order

Issued

Two

Sl No.	Subject	Central Order No with date	State Order No with date
1	Registered persons opting to pay tax under the new composition like scheme shall issue Bill of Supply instead of tax invoice	<u>3/2019 – CT dt 08.03.2019</u>	<u>395-F.T. Dt. 08.03.2019</u>
2	In case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt.	<u>04/2019- CT dt 29.03.2019</u>	<u>560-F.T. dt 29.03.2019</u>

Court Cases

Case of Torque Pharmaceuticals Pvt Ltd Vs UOI reported in 2019-TIOL-521-HC-ALL-GST:

Constitution of Appellate Tribunal –Allahabad HC directs Centre and States to file better affidavits giving a cut off date by which they propose to set up the Tribunal.

Case of Bharat Raj Punj Vs Commissioner of CGST; Criminal Writ Petition No.76/2019:

Input Credit based on Fake Invoices –Rajasthan HC dismisses WP and imposes cost of Rs.1 Lakh on the Petitioner. Since offence u/s 132 is made out and Senior Officials of Company are behind bars, Petitioner being Managing Director is responsible and Department has the right to proceed u/s 69 and 70 of the Act.

Rulings by WBAAR

Order No & date: 44/WBAAR/2018-19 dated 13/03/2019

Applicant: Shiva Writing Company Pvt. Ltd.

Issue:

Whether tips and ball, both being pen parts under HSN Chapter Head 9608, used in manufacturing process of ball point pens, are taxable at the rate of 12%?

b) If the tips and balls used in the manufacturing of ball point pens are not taxable at the rate of 12% under HSN 9608, then at what rate shall they be taxable and under which HSN?

Rulings:

“Tips and Balls” of Ball Point Pens are to be classified under GST Tariff Heading **9608 99 90** and included under **SI No. 453** of Schedule III of Notification No. 01/2017–CT (Rate) dt 28.06.2017 (corresponding State Notification No. 1125-FT dated 28/06/2017).

Rulings by WBAAR (contd.)

Order No & date: 45/WBAAR/2018-19 dated 26/02/2019

Applicant: Udayan Cinema Pvt Ltd

Issue:

The Applicant who sets to appoint CDI Virtual Films Inc. as a Line Producer in Brazil for the feature film he is intending to produce, seeks a ruling on: whether he is liable to pay IGST on the reverse charge on the payments to be made to CDIVF Inc. and, at what rate? & whether the reimbursements made on an actual cost basis will also be subject to IGST?

Rulings:

CDI Virtual Films Inc. as a Line Producer to be engaged for the shooting of a feature film in Brazil is supplying **motion picture production service**, classifiable under **SAC 999612**.

The Applicant is liable to pay **IGST** on the payments made to the Line Producer **@ 18%**. No deduction is available from the value of the supply of motion picture production service even if payment is made on an actual cost basis.

Rulings by WBAAR (contd.)

Order No & date: 46/WBAAR/2018-19 dated 26/03/2019

Applicant: Eskag Pharma Pvt Ltd

Issue:

The Applicant, a manufacturer of pharmaceuticals, APIs and other medicaments seeks a ruling on classification of fifteen products.

Rulings:

The products are labelled as dietary/health supplements. Products mentioned under SI Nos. 2 to 13 [Folcovit capsule, Folcovit Distab, Myova/Myowin Tablet, Candyflora Tablet, Carisma Tablet, Lactolite syrap, Lacolite Z Sachet, Biogut Dry Syrup, Enterobiotic Dry Syrup, Gutclausy Dry Syrup, Evaday Capsule, Zink Ascorbate (Dry syrup)] are classifiable under HSN 2106, and taxable under SI No. 23 of Schedule III of Notification No. 1/2017-CT (Rate) dt 28/06/2017 as amended from time to time.

Rulings by WBAAR (contd.)

Order No & date: 47/WBAAR/2018-19 dated 26/03/2019

Applicant: Alok Bhanuka, carrying on business under the trade name Bhanuka Enterprises

Issue:

Whether repairing and servicing of transformers (involving both supply of goods and services) owned by WBSEDCL is job work u/s 2(68) of the GST Act, or whether it is a composite supply. If it is composite supply then, what should be the principal supply and the rate of tax thereon. Whether the repaired transformers can be delivered to WBSEDCL against challans without raising tax invoices?

Rulings:

Repairing and servicing of transformers owned by another person is not job work as defined u/s 2(68) of the GST Act. It is composite supply unless the contract specifies that the goods and services are to be separately charged. The **principal supply is the service of repair of transformers** classifiable under SAC 998719 and taxable as per Notification No. 11/2017 – CT (Rate) dt 28/06/2017 (corresponding State Notification No. 1135 FT dt 28/06/2017), as amended from time to time.

Rulings by WBAAR (contd.)

Order No & date: 48/WBAAR/2018-19 dated 28/03/2019

Applicant: The Bengal Rowing Club

Issue: Seeking an advance ruling on the rate of GST applicable on the services the club offers to its members like the restaurant service offered along with the supply of food, services like valet parking, music, decoration and other such services associated with organizing social gatherings etc. The Applicant also wants to know the admissible proportion of the input tax credit for services other than the supply of food.

Rulings:

- **Supply of food, by way of or as part of any service** or in any other manner whatsoever, from the Applicant's restaurant is **classifiable under SAC 9963**.
- If food is supplied by way of or as part of the services associated with organizing social events at the club premises, together with renting of such premises, it will be classifiable under SAC 9963.
- All other services offered by the Applicant are classifiable under SAC 9995.
- In all of the above cases tax will be charged as per Notification No. 11/2017-CT (Rate) dt 28/06/2017
- The Applicant should apply the provisions under section 17(2) & (6) of the GST Act, read with rules 42 and 43 of the GST Rules, for reversal of input tax credit.

Rulings by WBAAR (contd.)

Order No & date: 49/WBAAR/2018-19 dated 28/03/2019

Applicant: Ratan Projects & Engineering Co Private Limited

Issue:

Whether dispatch of materials like furnace oil, zinc, nickel that are to be consumed in the galvanising process of steel structure is to be treated as supply from the principal to the job worker if they are not returned within the time allowed under section 143(1)(a) of the GST Act.

Rulings:

Return of the galvanised goods to the Applicant satisfies the condition of receiving back the inputs in accordance with section 143(1)(a) of the GST Act. As the goods like **furnace oil, zinc etc consumed in the process of galvanising are inseparable** from the galvanised goods, **they should not be treated as supply in terms of section 143(3)** of the GST Act, provided they have been entirely used up in the process of galvanising.



Thank You

Disclaimer:

This presentation is clarificatory in nature. It is not to be construed as a legal explanation or interpretation of the Acts and the Rules.